

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JONATHAN P. SHEETZ,)
Plaintiff,)
)
v.) C.A. No. 10-10844-MLW
)
MIREIA MARTI,)
Defendant.)

ORDER

WOLF, D.J.

March 6, 2011

Plaintiff Jonathan P. Sheetz filed a complaint and corresponding motion to issue a subpoena to the Department of Homeland Security (the "motion for subpoena"). In a May 19, 2010 Order, the court deferred decision on the motion for subpoena due to an apparent lack of jurisdiction. On May 26, 2010, plaintiff filed an amended complaint asserting various state-law claims against defendant Mireia Marti arising out of her alleged poisoning of plaintiff. Plaintiff asserted federal jurisdiction based on diversity of citizenship. Service is complete, but defendant has not responded to the amended complaint.

Although the parties have not yet conferred pursuant to Federal Rule of Civil Procedure 26(f), discovery is permissible when authorized by court order. See Fed. R. Civ. P. 26(d)(1). Because the requested records relate to defendant's possible residency in Massachusetts and may, therefore, be relevant to the existence of diversity of citizenship and to defendant's presence

in the United States at the time of the events alleged in the amended complaint, the motion for subpoena is being allowed.

Accordingly, it is hereby ORDERED that:

1. The Emergency Motion to Issue Subpoena to the Department of Homeland Security (Docket No. 2) is ALLOWED.

2. Plaintiff shall, by March 21, 2011, provide the court's Deputy Clerk Daniel Hohler the subpoena to be issued.

/s/ Mark L. Wolf
UNITED STATES DISTRICT JUDGE